

Apr 3, 2007 3:11PM LENAHAN DEMPSEY

No. 3972 F. 3718

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04-CV-12253MLW

STEVEN McDermott and  
STACEY McDermott  
Plaintiffs,

vs.

FEDEX GROUND PACKAGE  
SYSTEMS, INC., T.S. PRUITT,  
ALLEGIANCE HEALTHCARE, INC.,  
D. PONCE, E. W. WYLIE  
CORPORATION, D.W. SMITH,  
ARSENBERGER TRUCKING, INC.,  
J.T. FOSBRINK, RYDER TRUCK  
RENTAL, LORRAINE ODZANA as  
ADMINISTRATRIX OF THE ESTATE  
OF JAMES J. ODZANA, SHORELINE  
TRANSPORTATION, INC., JACLYN  
PALETTA as ADMINISTRATRIX OF  
THE ESTATE OF MARIO J. CASTRO;  
DefendantsPLAINTIFF'S SECOND AMENDED COMPLAINT1. PARTIES

1. The Plaintiff, Steven McDermott ("Mr. McDermott") is an individual with a primary residence of 175 Mechanic Street, Bellingham, Norfolk County, Massachusetts.
2. The Plaintiff, Stacey McDermott ("Mrs. McDermott") is the wife of the Mr. McDermott and an individual with a primary address of 175 Mechanic Street, Bellingham, Norfolk County, Massachusetts.
3. The Defendant, FedEx Ground Package Systems, Inc., ("FedEx") is a foreign corporation in good standing and duly organized under the law of the State of Tennessee with a principal place of business located at 3510 Hacks Cross Road, Memphis, Tennessee and at all times relevant hereto was the owner of a tractor and trailer that the Plaintiff claims caused his injuries.

DOUGAN, MCGLAUGHLIN,  
SHAWL & MANGANO LLP  
ATTORNEYS AT LAW  
1 PLEASANT STREET  
16TH FLOOR  
MASSACHUSETTS 01702

(508) 861-1200  
FAX (508) 861-1125

Apr. 3, 2007 3:12PM LENAHAN DEMSEY

No 3972 F 4/18

4. The Defendant, T.S. Pruitt, ("Pruitt") is an individual with a primary address of 373 Highway 30 East, Oxford, Lafayette County, Mississippi, and at all times relevant hereto was the agent, servant and/or employee of Defendant, FedEx.

5. The Defendant, Allegiance Healthcare, Inc., ("Allegiance") is a foreign corporation in good standing and duly organized under the laws of the State of Illinois, with a principal place of business at 1430 Waukegan Road, McGaw Park, Illinois, and at all relevant times was the owner of a tractor and trailer that the Plaintiff claims caused his injuries.

6. The Defendant, D. Ponce ("Ponce") is an individual with a primary address of 23 Elston Drive, Middletown, New York, and at all relevant times hereto was the agent, servant and/or employee of Defendant, Allegiance Healthcare, Inc.

7. The Defendant, E.W. Wyllie Corporation, ("Wyllie") is a foreign corporation in good standing and duly organized under the law of the State of North Dakota, with a principal place of business at 222 40th Street SW, Fargo, North Dakota, and at all relevant times was the owner of a tractor and trailer that the Plaintiff claims caused his injuries.

8. The Defendant, D.W. Smith ("Smith") is an individual residing at 3913 130<sup>th</sup> Avenue, Little Falls, Minnesota, and at all relevant times hereto was the agent, servant and/or employee of Defendant, E.W. Wyllie Corporation.

9. The Defendant, Arzenberger Trucking, Inc., ("Arzenberger") is a foreign corporation in good standing and duly organized under the laws of the State of Pennsylvania with a principal place of business at 681 Mill Run Road, Mill Run, Pennsylvania, and at all relevant times was the owner of a tractor and trailer that the Plaintiff claims caused his injuries.

10. The Defendant, The Defendant, J.T. Fesbrink ("Fesbrink") is an individual residing at 475 Dunbar Oblepsy Road, Dunbar, Pennsylvania, and at all relevant times hereto was the agent, servant and/or employee of Defendant, Arzenberger Trucking, Inc.

11. The Defendant, Ryder Truck Rental, Inc., ("Ryder") is a foreign corporation in good standing and duly organized under the law of the State of Pennsylvania with a principal place of business at 111 2<sup>nd</sup> Street, Plains, Pennsylvania, and at all relevant times was the owner of a tractor and trailer that the Plaintiff claims caused his injuries.

12. The Defendant, Lorraine Odzana, Administratrix of the Estate of James J. Odzana ("Odzana") is an individual residing at 125 Railroad Street, Taylor, Pennsylvania, and at all relevant times hereto is the administratrix for the agent, servant and/or employee of Ryder Truck Rental, Inc.

13. The Defendant, Shoreline Transportation, Inc., ("Shoreline") is a foreign corporation in good standing and duly organized under the laws of the state of Ohio with a principal place of business at 9880 York Alpha Drive, North Royalton, Ohio and at all relevant times was the owner of a tractor and trailer that the Plaintiff claims caused his injuries.

SCOTT, MCALPIN,  
MCADOO & MAHANEY, LLP  
ATTORNEYS AT LAW  
1 MURRAY STREET  
FOURTH FLORER  
BOSTON, MASSACHUSETTS 02108  
—  
(617) 523-1020  
FAX (617) 523-1121

APR 3 2007 3:13PM LENAHAN VEN/SCY

NO 3711 1-3710

14. The Defendant, Jaslyn Palotta, Administratrix of the Estate of Mario J. Castro, ("Castro") is an individual residing at 1324 West 57<sup>th</sup> Street, Cleveland, Ohio, and at all relevant times herein is the administratrix for the agent, servant and/or employee of Shoreline Transportation, Inc.

### II. JURISDICTION

15. The Defendants, at all relevant times herein, actively engaged in business in the Commonwealth of Massachusetts and/or contracted to do business in the Commonwealth of Massachusetts. Jurisdiction over the subject matter of this action is conferred by 38 U.S.C. § 332. The amount in controversy exceeds seventy-five thousand and 00/100 (\$75,000.00) exclusive of interest and costs.

16. Jurisdiction over the Defendant corporations is conferred by M.G.L. c. 223A, §§ 3(a) and 3(b) and is consistent with the due process clause of the Fourteenth Amendment as the Defendant at all times relevant herein (a) transacted business in the Commonwealth of Massachusetts and (b) contracted to supply services in the Commonwealth of Massachusetts.

17. Jurisdiction over the individual Defendants, as agent, servant and/or employee of the Defendant Corporations, is conferred by M.G.L. c.223A, §§ 3(a) and 3(b) and is consistent with the due process clause of the Fourteenth Amendment as the Co-Defendant at all times relevant herein, as agent, servant, employee of Defendant corporations, (a) transacted business in the Commonwealth of Massachusetts and (b) contracted to supply services in the Commonwealth of Massachusetts.

### III. FACTS

18. On or about February 7, 2003, at approximately 3:00 am, while traveling on Interstate 94 Eastbound in the Commonwealth of Pennsylvania, Mr. McDermott sustained severe injuries in a motor vehicle accident caused by the negligent actions and/or omissions of the above named Defendants.

19. The FedEx motor vehicle, being operated by Pruitt, their agent, servant and/or employee, also traveling Interstate 94 Eastbound, was exceeding a reasonable and safe speed taking into account the conditions of the road.

20. Pruitt, unable to stop his motor vehicle, struck the Mr. McDermott with excessive force causing severe and permanent injuries of body and mind.

21. The Allegiance Healthcare motor vehicle, being operated by Ponos, their agent, servant and/or employee, also traveling Interstate 94 Eastbound, was exceeding a reasonable and safe speed taking into account the conditions of the road.

BOUCH, McLAUGHLIN,  
CHAMBERS & MAHANAY, LLP  
ATTORNEYS AT LAW  
3 PEARLSTON STREET  
SOUTH BOSTON  
MASSACHUSETTS 02116

(617) 524-7400  
FAX (617) 521-1128

Apr. 3, 2007 9:13PM STEPHAN DEMPSEY

No. 59/2 r. 0/18

22. Perez, through his negligent actions and omissions, was the proximate cause of injuries sustained by Mr. McDermott thereby causing severe and permanent injuries of body and mind.

23. The Wyde motor vehicle, being operated by Smith, their agent, servant and/or employee, also traveling Interstate 84 Eastbound, was exceeding a reasonable and safe speed taking into account the conditions of the road.

24. Smith, through his negligent actions and omissions, was the proximate cause of injuries sustained by Mr. McDermott thereby causing severe and permanent injuries of body and mind.

25. The Arsenberger motor vehicle, being operated by Fesbrink, their agent, servant and/or employee, also traveling Interstate 84 Eastbound, was exceeding a reasonable and safe speed taking into account the conditions of the road.

26. Fesbrink, through his negligent actions and omissions, was the proximate cause of injuries sustained by Mr. McDermott thereby causing severe and permanent injuries of body and mind.

27. The Ryder motor vehicle, being operated by Odzana, their agent, servant and/or employee, also traveling Interstate 84 Eastbound, was exceeding a reasonable and safe speed taking into account the conditions of the road.

28. Odzana, through his negligent actions and omissions, was the proximate cause of injuries sustained by Mr. McDermott thereby causing severe and permanent injuries of body and mind.

29. The Shoreline motor vehicle, being operated by Castro, their agent, servant and/or employee, also traveling Interstate 84 Eastbound, was exceeding a reasonable and safe speed taking into account the conditions of the road.

30. Castro, through his negligent actions and omissions, was the proximate cause of injuries sustained by Mr. McDermott thereby causing severe and permanent injuries of body and mind.

31. The Plaintiff, Mr. McDermott, sustained personal injuries on February 7, 2003, due to the negligence and carelessness of the Defendants, their agents, servants, employees and/or contractors.

32. The Co-Plaintiff, Mrs. McDermott, is seeking damages for loss of comfort, care, companionship, and consortium as a result of these injuries.

#### IV. NEGLIGENCE

##### Steven McDermott v. Red-Ey Ground Products Systems, Inc.

33. Plaintiff Steven McDermott re-alleges and re-avers the allegations of paragraphs 1 through 32 and incorporates them by reference as if fully set forth herein.

SCOTT, MCNAUL, LTD.  
CHARLES & MAMANTE, LLP  
ATTORNEYS AT LAW  
1 PLAZA MALL  
BOSTON, MASS.  
FAX (617) 523-8740

(617) 523-1010  
FAX (617) 523-1118

Apr. 3, 2007 9:14PM LENAHAN DEMPSEY

No. 3912 F. 1/18

34. As a direct and proximate result of the aforesaid negligence of the Defendant FedEx, the Plaintiff, Mr. McDermott, sustained severe and permanent personal injuries and has and will continue to be obliged to expend money for medical care and attendance.

35. As a direct and proximate result of the aforesaid negligence of the Defendant FedEx, the Plaintiff, Mr. McDermott's, earning capacity was damaged and depreciated in value and the Plaintiff was prevented from attending to Plaintiff's usual occupation.

36. As a direct and proximate result of the aforesaid negligence of the Defendant FedEx, the Plaintiff, Mr. McDermott, will continue to suffer great pain of body and mind.

WHEREFORE, Plaintiff, Steven McDermott demands judgment against the Defendants, FedEx Ground Package Systems, Inc. in an amount to be determined by the jury, plus interest and costs.

V. NEGLIGENCE

Steven McDermott v. T.S. Pruitt

37. Plaintiff Mr. McDermott realleges and reavers the allegations of paragraphs 1 through 36 and incorporates them by reference as if fully stated herein.

38. As a direct and proximate result of the aforesaid negligence of the Defendant Pruitt, the Plaintiff, Mr. McDermott, sustained severe and permanent personal injuries and has and will continue to be obliged to expend money for medical care and attendance.

39. As a direct and proximate result of the aforesaid negligence of the Defendant Pruitt, the Plaintiff, Mr. McDermott's, earning capacity was damaged and depreciated in value and the Plaintiff was prevented from attending to Plaintiff's usual occupation.

40. As a direct and proximate result of the aforesaid negligence of the Defendant Pruitt, the Plaintiff, Mr. McDermott, will continue to suffer great pain of body and mind.

WHEREFORE, Plaintiff, Steven McDermott demands judgment against the Defendant, T.S. Pruitt in an amount to be determined by the jury, plus interest and costs.

VI. LOSS OF CONSORTIUM

Stacey McDermott v. FedEx Ground Package Systems, Inc.

41. Plaintiff Mrs. McDermott realleges and reavers the allegations of paragraphs 1 through 40 and incorporates them herein by reference as if fully stated herein.

42. The Plaintiffs, Steven and Stacey McDermott were married on October 14, 2000, in the Commonwealth of Massachusetts.

LEAHAN, McLAUGHLIN,  
CHAND & MAXWELL, LLP  
ATTORNEYS AT LAW  
194 FAIRFIELD STREET  
SOUTHBOSTON  
02199-4000  
—  
(617) 451-1890  
FAX (617) 451-0130

Apr 19, 2007 3:15PM LENAHAN DEMPSEY

No. 5812 T. 8/18

43. As a direct and proximate result of the aforesaid negligence of the Defendant FedEx, the Plaintiff, Mrs. McDermott, sustained a loss of service, society, and conjugal affection of her spouse and has experienced an injury to her marital expectations.

44. As a direct and proximate result of the aforesaid negligence of the Defendant FedEx, the Plaintiff, Mrs. McDermott, will continue to sustain a loss of service, society, and conjugal affection of her spouse and will continue to experience an injury to her marital expectations.

**WHEREFORE**, Plaintiff, Stacey McDermott demands judgment against the Defendants, FedEx Ground Package Systems, Inc. in an amount to be determined by the jury, plus interest and costs.

**VII. LOSS OF CONJUGAL  
Stacey McDermott v. T.S. Pruitt**

45. Plaintiff, Mrs. McDermott alleges and reavers the allegations of paragraphs 1 through 44 and incorporates them by reference as if fully stated herein.

46. The Plaintiff, Steven and Stacey McDermott were married on October 14, 2000, in the Commonwealth of Massachusetts.

47. As a direct and proximate result of the aforesaid negligence of the Defendant Pruitt, the Plaintiff, Mrs. McDermott, sustained a loss of service, society, and conjugal affection of her spouse and has experienced an injury to her marital expectations.

48. As a direct and proximate result of the aforesaid negligence of the Defendant Pruitt, the Plaintiff, Mrs. McDermott, will continue to sustain a loss of service, society, and conjugal affection of her spouse and will continue to experience an injury to her marital expectations.

**WHEREFORE**, Plaintiff, Stacey McDermott demands judgment against the Defendant, T.S. Pruitt in an amount to be determined by the jury, plus interest and costs.

**VIII NEGLIGENCE  
Stacey McDermott v. Allegiance Health Care, Inc.**

49. Plaintiff Steven McDermott alleges and reavers the allegations of paragraphs 1 through 48 and incorporates them by reference as if fully set forth herein.

50. As a direct and proximate result of the aforesaid negligence of the Defendant Allegiance, the Plaintiff, Mr. McDermott, sustained severe and permanent personal injuries and has and will continue to be obliged to expend money for medical care and attendance.

51. As a direct and proximate result of the aforesaid negligence of the Defendant Allegiance, the Plaintiff, Mr. McDermott's, earning capacity was damaged and depreciated in value and the Plaintiff was prevented from returning to Plaintiff's usual occupation.

SCOTT, MELIVENKIN,  
REEDER & MANNER, LLP  
ATTORNEYS AT LAW  
141 BOSTON STREET  
BOSTON, MASS.  
02111-3740  
TELEPHONE: (617) 426-1125  
FAX: (617) 426-1126

Apr 3, 2007 9:15PM LENAHAN DEMPSEY

NO. 59/3 P. 9/18

32. As a direct and proximate result of the aforesaid negligence of the Defendant Allegiance, the Plaintiff, Mr. McDermott, will continue to suffer great pain of body and mind.

WHEREFORE, Plaintiff, Steven McDermott demands judgment against the Defendant, Allegiance Health Care, Inc., in an amount to be determined by the jury, plus interest and costs.

**IX. NEGLIGENCE**  
**Steven McDermott v. D. Ponce**

33. Plaintiff Mr. McDermott re alleges and recovers the allegations of paragraphs 1 through 12 and incorporates them by reference as if fully stated herein.

34. As a direct and proximate result of the aforesaid negligence of the Defendant Ponce, the Plaintiff, Mr. McDermott, sustained severe and permanent personal injuries and has and will continue to be obliged to expend money for medical care and attendance.

35. As a direct and proximate result of the aforesaid negligence of the Defendant Ponce, the Plaintiff's, Mr. McDermott's, earning capacity was damaged and depreciated in value and the Plaintiff was prevented from attending to Plaintiff's usual occupation.

36. As a direct and proximate result of the aforesaid negligence of the Defendant Ponce, the Plaintiff, Mr. McDermott, will continue to suffer great pain of body and mind.

WHEREFORE, Plaintiff, Steven McDermott demands judgment against the Defendant, D. Ponce in an amount to be determined by the jury, plus interest and costs.

**X. LOSS OF CONSOEURUM**  
**Stacey McDermott v. Allegiance Health Care, Inc.**

37. Plaintiff Mrs. McDermott re alleges and recovers the allegations of paragraphs 1 through 36 and incorporates them herein by reference as if fully stated herein.

38. The Plaintiffs, Steven and Stacey McDermott were married on October 14, 2000, in the Commonwealth of Massachusetts.

39. As a direct and proximate result of the aforesaid negligence of the Defendant Allegiance, the Plaintiff, Mrs. McDermott, sustained a loss of service, society, and conjugal affection of her spouse and has experienced an injury to her marital expectations.

40. As a direct and proximate result of the aforesaid negligence of the Defendant Allegiance, the Plaintiff, Mrs. McDermott, will continue to sustain a loss of service, society, and conjugal affection of her spouse and will continue to experience an injury to her marital expectations.

DOUGLASS, McLAUGHLIN,  
 BRAKKE & BRAKKE, LLP  
 ATTORNEYS AT LAW  
 3 PLEASANT STREET  
 SOUTH BOSTON,  
 MASSACHUSETTS 02111  
 (617) 523-1650  
 FAX (617) 523-2135

Apr. 3, 2007 9:10AM McNAHAN DEMSEY

No. 3972 P. 19/18

**WHEREFORE**, Plaintiff, Stacey McDermott demands judgment against the Defendants, Allegiance Health Care, Inc., in an amount to be determined by the jury, plus interest and costs.

**XI. LOSS OF CONSORTIUM**  
**Stacey McDermott v. D. Ponce**

61. Plaintiff, Mrs. McDermott realleges and reavers the allegations of paragraphs 1 through 60 and incorporates them by reference as if fully stated herein.

62. The Plaintiffs, Steven and Stacey McDermott were married on October 14, 2000, in the Commonwealth of Massachusetts.

63. As a direct and proximate result of the aforesaid negligence of the Defendant Ponce, the Plaintiff, Mrs. McDermott, sustained a loss of service, society, and conjugal affection of her spouse and has experienced an injury to her marital expectations.

64. As a direct and proximate result of the aforesaid negligence of the Defendant Ponce, the Plaintiff, Mrs. McDermott, will continue to sustain a loss of service, society, and conjugal affection of her spouse and will continue to experience an injury to her marital expectations.

**WHEREFORE**, Plaintiff, Stacey McDermott demands judgment against the Defendant, D. Ponce in an amount to be determined by the jury, plus interest and costs.

**XII. NEGLIGENCE**  
**Steven McDermott v. E. W. Wyllie Corporation**

65. Plaintiff Steven McDermott realleges and reavers the allegations of paragraphs 1 through 64 and incorporates them by reference as if fully set forth herein.

66. As a direct and proximate result of the aforesaid negligence of the Defendant Wyllie, the Plaintiff, Mr. McDermott, sustained severe and permanent personal injuries and has and will continue to be obliged to expend money for medical care and attendance.

67. As a direct and proximate result of the aforesaid negligence of the Defendant Wyllie, the Plaintiff, Mr. McDermott's, earning capacity was damaged and depreciated in value and the Plaintiff was precluded from attending to Plaintiff's usual occupation.

68. As a direct and proximate result of the aforesaid negligence of the Defendant Wyllie, the Plaintiff, Mr. McDermott, will continue to suffer great pain of body and mind.

**WHEREFORE**, Plaintiff, Steven McDermott demands judgment against the Defendant, E. W. Wyllie Corporation in an amount to be determined by the jury, plus interest and costs.

MCNAHAN, MCNAHAN & MCDERMOTT, LLP  
ATTORNEYS AT LAW  
2 PLAZA EAST TOWER  
SOUTH BOSTON,  
MASSACHUSETTS 02110

(617) 520-1200  
FAX (617) 521-1118

Apr. 3, 2007 9:47 PM LENAHAN DENYSEY

NO. 3972 F. 11/18

**XIII. NEGLIGENCE***Steven McDermott v. D. W. Smith*

69. Plaintiff Mr. McDermott realleges and reavers the allegations of paragraphs 1 through 68 and incorporates them by reference as if fully stated herein.

70. As a direct and proximate result of the aforesaid negligence of the Defendant Smith, the Plaintiff, Mr. McDermott, sustained severe and permanent personal injuries and has and will continue to be obliged to expend money for medical care and attendance.

71. As a direct and proximate result of the aforesaid negligence of the Defendant Smith, the Plaintiff's, Mr. McDermott's, earning capacity was damaged and depreciated in value and the Plaintiff was prevented from attending to Plaintiff's usual occupation.

72. As a direct and proximate result of the aforesaid negligence of the Defendant Smith, the Plaintiff, Mr. McDermott, will continue to suffer great pain of body and mind.

**WHEREFORE**, Plaintiff, Steven McDermott demands judgment against the Defendant, D. W. Smith in an amount to be determined by the jury, plus interest and costs.

**XIV. LOSS OF CONSOITUM***Stacey McDermott v. E. W. Wylls Corporation*

73. Plaintiff Mrs. McDermott realleges and reavers the allegations of paragraphs 1 through 72, and incorporates them herein by reference as if fully stated herein.

74. The Plaintiff, Steven and Stacey McDermott were married on October 14, 2000, in the Commonwealth of Massachusetts.

75. As a direct and proximate result of the aforesaid negligence of the Defendant Wylls, the Plaintiff, Mrs. McDermott, sustained a loss of service, society, and conjugal affection of her spouse and has experienced an injury to her marital expectations.

76. As a direct and proximate result of the aforesaid negligence of the Defendant Wylls, the Plaintiff, Mrs. McDermott, will continue to sustain a loss of service, society, and conjugal affection of her spouse and will continue to experience an injury to her marital expectations.

**WHEREFORE**, Plaintiff, Stacey McDermott demands judgment against the Defendants, E. W. Wylls Corporation in an amount to be determined by the jury, plus interest and costs.

**XV. LOSS OF CONSOITUM***Stacey McDermott v. D. W. Smith*

77. Plaintiff, Mrs. McDermott realleges and reavers the allegations of paragraphs 1 through 76 and incorporates them by reference as if fully stated herein.

DOUGLASS, MELAGONIUS,  
LENAHAN & MAMANTOS LLP  
ATTORNEYS AT LAW  
11 WEAVERS STREET  
FOURTH FLOOR,  
WALTHAM, MASSACHUSETTS 02451

617/842-1000  
FAX 617/842-1111

APR 3 2007 9:24PM LENAHAN DEMPSEY

NO. 3912 P. 14/10

75. The Plaintiff, Steven and Stacy McDermott were married on October 14, 2000, in the Commonwealth of Massachusetts.

79. As a direct and proximate result of the aforesaid negligence of the Defendant Smith, the Plaintiff, Mrs. McDermott, sustained a loss of service, society, and conjugal affection of her spouse and has experienced an injury to her marital expectations.

80. As a direct and proximate result of the aforesaid negligence of the Defendant Smith, the Plaintiff, Mrs. McDermott, will continue to sustain a loss of service, society, and conjugal affection of her spouse and will continue to experience an injury to her marital expectations.

WHEREFORE, Plaintiff, Stacy McDermott demands judgment against the Defendant, D. W. Smith in an amount to be determined by the jury, plus interest and costs.

XV. NEGLIGENCE  
Steven McDermott v. Arsenberger Trucking, Inc.

81. Plaintiff Steven McDermott realleges and reavers the allegations of paragraphs 1 through 80 and incorporates them by reference as if fully set forth herein.

82. As a direct and proximate result of the aforesaid negligence of the Defendant Arsenberger, the Plaintiff, Mr. McDermott, sustained severe and permanent personal injuries and has and will continue to be obliged to expend money for medical care and attendance.

83. As a direct and proximate result of the aforesaid negligence of the Defendant Arsenberger, the Plaintiff, Mr. McDermott's, earning capacity was damaged and depreciated in value and the Plaintiff was prevented from attending to Plaintiff's usual occupation.

84. As a direct and proximate result of the aforesaid negligence of the Defendant Arsenberger, the Plaintiff, Mr. McDermott, will continue to suffer great pain of body and mind.

WHEREFORE, Plaintiff, Steven McDermott demands judgment against the Defendants, Arsenberger Trucking, Inc., Inc. in an amount to be determined by the jury, plus interest and costs.

XV. NEGLIGENCE  
Steven McDermott v. J.T. Fesbrink

85. Plaintiff Mr. McDermott realleges and reavers the allegations of paragraphs 1 through 84 and incorporates them by reference as if fully stated herein.

86. As a direct and proximate result of the aforesaid negligence of the Defendant Fesbrink, the Plaintiff, Mr. McDermott, sustained severe and permanent personal injuries and has and will continue to be obliged to expend money for medical care and attendance.

DOUGLAS MCLAUGHLIN,  
CHARLES & MCLAUGHLIN, LLP  
ATTORNEYS AT LAW  
1 PLEASANT STREET  
SOUTH BOSTON, MA 02111  
(617) 426-1800  
FAX (617) 426-1170

APR 30 2007 9:47AM LEBANON DEMOCRAT

NO. 2712-11-14718

87. As a direct and proximate result of the aforesaid negligence of the Defendant Postlink, the Plaintiff's, Mr. McDermott's, earning capacity was damaged and depreciated in value and the Plaintiff was prevented from returning to Plaintiff's usual occupation.

88. As a direct and proximate result of the aforesaid negligence of the Defendant Postlink, the Plaintiff, Mr. McDermott, will continue to suffer great pain of body and mind.

WHEREFORE, Plaintiff, Steven McDermott demands judgment against the Defendant, J. T. Postlink in an amount to be determined by the jury, plus interest and costs.

**XVII. LOSS OF CONSORTIUM**  
**Stacey McDermott v. Arsenberger Trucking, Inc.**

89. Plaintiff Mrs. McDermott realleges and reavers the allegations of paragraphs 1 through 88 and incorporates them herein by reference as if fully stated herein.

90. The Plaintiff, Steven and Stacey McDermott were married on October 14, 2000, in the Commonwealth of Massachusetts.

91. As a direct and proximate result of the aforesaid negligence of the Defendant Arsenberger, the Plaintiff, Mrs. McDermott, sustained a loss of service, society, and conjugal affection of her spouse and has experienced an injury to her marital expectations.

92. As a direct and proximate result of the aforesaid negligence of the Defendant Arsenberger, the Plaintiff, Mrs. McDermott, will continue to sustain a loss of service, society, and conjugal affection of her spouse and will continue to experience an injury to her marital expectations.

WHEREFORE, Plaintiff, Stacey McDermott demands judgment against the Defendants, Arsenberger Trucking, Inc., in an amount to be determined by the jury, plus interest and costs.

**XVIII. LOSS OF CONSORTIUM**  
**Stacey McDermott v. J.T. Postlink**

93. Plaintiff, Mrs. McDermott realleges and reavers the allegations of paragraphs 1 through 92 and incorporates them by reference as if fully stated herein.

94. The Plaintiff, Steven and Stacey McDermott were married on October 14, 2000, in the Commonwealth of Massachusetts.

95. As a direct and proximate result of the aforesaid negligence of the Defendant Postlink, the Plaintiff, Mrs. McDermott, sustained a loss of service, society, and conjugal affection of her spouse and has experienced an injury to her marital expectations.

SCOTT, McLAUGHLIN,  
CHARLES & MANTANAKIS, LLP  
ATTORNEYS AT LAW  
5 BRIGHAM STREET  
BOSTON, MASSACHUSETTS 02108  
TEL: (617) 523-1000  
FAX: (617) 523-1128

96. As a direct and proximate result of the aforesaid negligence of the Defendant Fesbrink, the Plaintiff, Mrs. McDermott, will continue to sustain a loss of service, society, and conjugal affection of her spouse and will continue to experience an injury to her marital expectations.

WHEREFORE, Plaintiff, Stacey McDermott demands judgment against the Defendant, J. T. Postbrink in an amount to be determined by the jury, plus interest and costs.

**XX. NEGLIGENCE**  
**McDermott v. Rydin Truck Rental**

97. Plaintiff Steven McDermott realleges and reavers the allegations of paragraphs 1 through 96 and incorporates them by reference as if fully set forth herein.

98. As a direct and proximate result of the aforesaid negligence of the Defendant Ryder, the Plaintiff, Mr. McDermott, sustained severe and permanent personal injuries and has and will continue to be obliged to expend money for medical care and attendance.

59. As a direct and proximate result of the aforesaid negligence of the Defendant Ryder, the Plaintiff, Mr. McDermott's, earning capacity was damaged and depreciated in value and the Plaintiff was prevented from attending to Plaintiff's usual occupation.

100. As a direct and proximate result of the aforesaid negligence of the Defendant Ryder, the Plaintiff Mr. McDermott, will continue to suffer great pain of body and mind.

**WHEREFORE**, Plaintiff, Steven McDermott demands judgment against the Defendants, Ryder Truck Rental in an amount to be determined by the jury, plus interest and costs.

### **XII. NEGLIGENCE**

**Stevens McDearmon v. Lorriane Odessa, as Administratrix of the Estate of James J. Odessa**

101. Plaintiff Mr. McDermott realleges and renews the allegations of paragraphs 1 through 100 and incorporates them by reference as if fully stated herein.

102 As a direct and proximate result of the aforesaid negligence of the Defendant Odhams, the Plaintiff, Mr. McDermott, sustained severe and permanent personal injuries and has and will continue to be obliged to expend money for medical care and attendance.

103. As a direct and proximate result of the aforesaid negligence of the Defendant Odzana, the Plaintiff's, Mr. McDermott's, earning capacity was damaged and depreciated in value and the Plaintiff was prevented from attending to Plaintiff's usual occupation.

104. As a direct and proximate result of the aforesaid negligence of the Defendant Odzane, the Plaintiff, Mr. McDermott, will continue to suffer great pain of body and mind.

JOSEPH MULCAHY, JR.  
CHARLES M. MULCAHY, LTD.  
ATTORNEYS AT LAW  
3 PLEASANT STREET  
YOUTH NAKED,  
MASSACHUSETTS 02116  
TELEPHONE  
(617) 265-1644  
TELEX (800) 319-1233

Apr. 3, 2007 9:26PM LENAHAN DENGEY

No 3972 P 17/18

**WHEREFORE**, Plaintiff, Steven McDermott demands judgment against the Defendant, Loraine Odzana as Administratrix of the Estate of James J. Odzana in an amount to be determined by the jury, plus interest and costs.

**XIX. LOSS OF CONSORTIUM**  
**Stacey McDermott v. Ryder Truck Rental**

105. Plaintiff Mrs. McDermott realleges and reavers the allegations of paragraphs 1 through 104 and incorporates them herein by reference as if fully stated herein.

106. The Plaintiffs, Steven and Stacey McDermott were married on October 14, 2000, in the Commonwealth of Massachusetts.

107. As a direct and proximate result of the aforesaid negligence of the Defendant Ryder, the Plaintiff, Mrs. McDermott, sustained a loss of service, society, and conjugal affection of her spouse and has experienced an injury to her marital expectations.

108. As a direct and proximate result of the aforesaid negligence of the Defendant Ryder, the Plaintiff, Mrs. McDermott, will continue to sustain a loss of service, society, and conjugal affection of her spouse and will continue to experience an injury to her marital expectations.

**WHEREFORE**, Plaintiff, Stacey McDermott demands judgment against the Defendants, Ryder Truck Rental in an amount to be determined by the jury, plus interest and costs.

**XXII. LOSS OF CONSORTIUM**  
**Stacey McDermott v. Loraine Odzana as Administratrix of the Estate of James J. Odzana**

109. Plaintiff Mrs. McDermott realleges and reavers the allegations of paragraphs 1 through 108 and incorporates them by reference as if fully stated herein.

110. The Plaintiffs, Steven and Stacey McDermott were married on October 14, 2000, in the Commonwealth of Massachusetts.

111. As a direct and proximate result of the aforesaid negligence of the Defendant Odzana, the Plaintiff, Mrs. McDermott, sustained a loss of service, society, and conjugal affection of her spouse and has experienced an injury to her marital expectations.

112. As a direct and proximate result of the aforesaid negligence of the Defendant Odzana, the Plaintiff, Mrs. McDermott, will continue to sustain a loss of service, society, and conjugal affection of her spouse and will continue to experience an injury to her marital expectations.

**WHEREFORE**, Plaintiff, Stacey McDermott demands judgment against the Defendant, Defendant, Loraine Odzana as Administratrix of the Estate of James J. Odzana in an amount to be determined by the jury, plus interest and costs.

DOUGLASS LAUGHLIN,  
 CHAPMAN & MURPHY LLP  
 ATTORNEYS AT LAW  
 1 PLAZA EAST  
 SOUTH BOSTON,  
 MASSACHUSETTS 02109

(617) 520-1000  
 FAX (617) 520-1722

APR. 3, 2007 5:27PM LENAHAN DEMPSEY

NO. 3274 F. 10/10

**XXIV. NEGLIGENCE**  
**Steven McDermott v. Shoreline Transportation, Inc.**

113. Plaintiff Steven McDermott realleges and reavers the allegations of paragraphs 1 through 112 and incorporates them by reference as if fully set forth herein.

114. As a direct and proximate result of the aforesaid negligence of the Defendant Shoreline, the Plaintiff, Mr. McDermott, sustained severe and permanent personal injuries and has and will continue to be obliged to expend money for medical care and attendance.

115. As a direct and proximate result of the aforesaid negligence of the Defendant Shoreline, the Plaintiff, Mr. McDermott's, earning capacity was damaged and depreciated in value and the Plaintiff was prevented from attending to Plaintiff's usual occupation.

116. As a direct and proximate result of the aforesaid negligence of the Defendant Shoreline, the Plaintiff, Mr. McDermott, will continue to suffer great pain of body and mind.

**WHEREFORE**, Plaintiff, Steven McDermott demands judgment against the Defendant, Shoreline Transportation, Inc., in an amount to be determined by the jury, plus interest and costs.

**XXV. NEGLIGENCE**  
**Steven McDermott v. Jacelyn Paletta as Administratrix of the Estate of Mario J. Castro**

117. Plaintiff Mr. McDermott realleges and reavers the allegations of paragraphs 1 through 116 and incorporates them by reference as if fully stated herein.

118. As a direct and proximate result of the aforesaid negligence of the Defendant Castro, the Plaintiff, Mr. McDermott, sustained severe and permanent personal injuries and has and will continue to be obliged to expend money for medical care and attendance.

119. As a direct and proximate result of the aforesaid negligence of the Defendant Castro, the Plaintiff, Mr. McDermott's, earning capacity was damaged and depreciated in value and the Plaintiff was prevented from attending to Plaintiff's usual occupation.

120. As a direct and proximate result of the aforesaid negligence of the Defendant Castro, the Plaintiff, Mr. McDermott, will continue to suffer great pain of body and mind.

**WHEREFORE**, Plaintiff, Steven McDermott demands judgment against the Defendant, Jacelyn Paletta as Administratrix of the Estate of Mario J. Castro in an amount to be determined by the jury, plus interest and costs.

SCOTT, MCNAUL, MCNAUL & HANAHAN LLP  
 ATTORNEYS AT LAW  
 3 PLEASANT STREET  
 SOUTH BOSTON,  
 MASSACHUSETTS 02110  
 \_\_\_\_\_  
 (617) 426-1000  
 FAX (617) 426-1111

Apr. 3, 2007 11:28PM LENAHAN DEMERSY

No. 3912 F. 1116

**XXV. LOSS OF CONSORTIUM**  
**Stacey McDermott v. Shoreline Transportation, Inc.**

121. Plaintiff Mrs. McDermott realleges and reavers the allegations of paragraphs 1 through 120 and incorporates them herein by reference as if fully stated herein.

122. The Plaintiffs, Steven and Stacey McDermott were married on October 14, 2000, in the Commonwealth of Massachusetts.

123. As a direct and proximate result of the aforesaid negligence of the Defendant Shoreline, the Plaintiff, Mrs. McDermott, sustained a loss of service, society, and conjugal affection of her spouse and has experienced an injury to her marital expectations.

124. As a direct and proximate result of the aforesaid negligence of the Defendant Shoreline, the Plaintiff, Mrs. McDermott, will continue to sustain a loss of service, society, and conjugal affection of her spouse and will continue to experience an injury to her marital expectations.

WHEREFORE, Plaintiff, Stacey McDermott demands judgment against the Defendants, Shoreline Transportation, Inc., in an amount to be determined by the jury, plus interest and costs.

**XXVI. LOSS OF CONSORTIUM**  
**Stacey McDermott v. Jaclyn Palotta as Administrator of the Estate of Marie J. Castro**

125. Plaintiff, Mrs. McDermott realleges and reavers the allegations of paragraphs 1 through 124 and incorporates them by reference as if fully stated herein.

126. The Plaintiffs, Steven and Stacey McDermott were married on October 14, 2000, in the Commonwealth of Massachusetts.

127. As a direct and proximate result of the aforesaid negligence of the Defendant Castro, the Plaintiff, Mrs. McDermott, sustained a loss of service, society, and conjugal affection of her spouse and has experienced an injury to her marital expectations.

128. As a direct and proximate result of the aforesaid negligence of the Defendant Castro, the Plaintiff, Mrs. McDermott, will continue to sustain a loss of service, society, and conjugal affection of her spouse and will continue to experience an injury to her marital expectations.

WHEREFORE, Plaintiff, Stacey McDermott demands the Defendant, Jaclyn Palotta as Administrator of the Estate of Marie J. Castro in an amount to be determined by the jury, plus interest and costs.

**PLAINTIFF DEMANDS A JURY TRIAL ON ALL ISSUES.**

Respectfully submitted,  
 Plaintiff, Steven McDermott,  
 Plaintiff, Stacey McDermott,

DOUGIN, McLAUGHLIN,  
 CHANDI & MCKEEHAN LLP  
 ATTORNEYS AT LAW  
 1 PLEASANT STREET  
 SOUTH BOSTON,  
 MASSACHUSETTS 02108

1 (617) 481-1999  
 FAX (617) 481-1123

ADT 3/2007 9:29AM LENAHAN DEMPSEY

No. 3972 P. 18/18

By their Attorney

*/s/ Joseph M. Mahaney*

Joseph M. Mahaney, Esq. BBOW: 549042  
 Goguen, McLaughlin, Richards & Mahaney, P.C.  
 The Harriet Beecher Stowe House  
 2 Pleasant Street  
 South Natick, MA 01760  
 (508) 655-1000

Dated: January 31, 2007

651-1000

**CERTIFICATE OF SERVICE**

I, Joseph M. Mahaney, certify that on January 31, 2007, I served a copy of the foregoing documents: Plaintiff's Assented Motion for Leave to File Corrected Second Amended Complaint and Plaintiff's Second Amended Complaint (with corrections), by mailing a copy, postage prepaid, to counsel of record:

Adam A. Larson, Esq.  
 Campbell, Campbell, Edwards & Conroy  
 One Constitution Plaza, Third Floor  
 Boston, Massachusetts 02110

*/s/ Joseph M. Mahaney*

Joseph M. Mahaney, Esq.

2500N. McLaughlin  
 Charles R. Mahaney, LLC  
 ATTORNEYS AT LAW  
 1 Pleasant Street  
 South Natick,  
 Massachusetts 01760

(508) 655-1000  
 FAX (508) 651-1000